

# EXHIBIT A

**Lowe, Rachel E. K.**

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**Subject:** FW: Your FOIA Request, 2017-7823  
**Attachments:** Final 2017-7823.pdf

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**From:** Paris, Adriane [<mailto:Adriane.Paris@fda.hhs.gov>]

**Sent:** Friday, October 06, 2017 12:08 PM

**To:** Rosenfeld, Jeffrey A.

**Cc:** Jones, Kimberly (CFSAN)

**Subject:** Your FOIA Request, 2017-7823

Mr. Rosenfeld:

This is in response to your Freedom of Information Act (FOIA) request to the Center for Food Safety and Applied Nutrition (CFSAN) dated September 12, 2017, seeking copies of the following:

- Center for Science in the Public Interest letter dated May 24, 2017 regarding the use of “no added sugar” labels on 100% juice products
- FDA’s response to CSPI’s letter dated August 8, 2017
- All records relating to the CSPI letter
- All records relating to the FDA response
- To the extent, not included in the above requests, any communications between CSPI and FDA from May 2017 to the present concerning 100% juice declarations
- To the extent, no included in the above requests, any communications between CSPI and FDA from May 22017 to the present concerning “No Sugar Added” nutrient content claims. and any response by the FDA to the letter sent by the Juice Products Association, dated July 13, 2017 regarding “no added sugar” labels on 100% juice products.

Attached are documents responsive to your request. Your request is granted in full and CFSAN considers this request closed. If you are not satisfied with any aspect of the processing and handling of this request, please contact me at 301-348-1976 or [adriane.paris@fda.hhs.gov](mailto:adriane.paris@fda.hhs.gov). You may also contact the FDA FOIA Public Liaison for assistance at:

Office of the Executive Secretariat  
US Food & Drug Administration  
5630 Fishers Lane, Room 1050  
Rockville, MD 20857  
E-mail: [FDAFOIA@fda.hhs.gov](mailto:FDAFOIA@fda.hhs.gov)

Best regards,

**Adriane Paris**

*Government Information Specialist*

Center for Food Safety and Applied Nutrition (CFSAN)  
Office of Regulations, Policy and Social Sciences (ORPSS)  
U.S. Food and Drug Administration (FDA)  
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August 31, 2017

Ms. Maia Kats  
 Ms. Laura MacCleery  
 Center for Science in the Public Interest  
 1220 L Street NW, Suite 300  
 Washington, DC 20005

Dear Ms. Kats and Ms. MacCleery:

Thank you for your letter of May 24, 2017, concerning the labeling of juice with a 100% juice declaration and the nutrient content claim “No Added Sugar.” In your letter, you urged the Food and Drug Administration (FDA) to take action to enforce the regulations in Title 21 of the *Code of Federal Regulations* (21 CFR), section 101.60(c)(2)(iv). We share your concerns about the truthful labeling of food products, and your concerns about public health.

In accordance with FDA’s requirements that are summarized below, firms may make the “No Added Sugar” nutrient content claim on certain products that bear the declaration “100% juice.” Products that bear a 100% juice declaration may contain other ingredients. FDA’s definition of “juice” in 21 CFR 120.1(a) does not prohibit added ingredients such as sugar. The agency has long recognized that certain ingredients such as sweeteners are added for flavor, and others may be added as nutrients or preservatives. Therefore, firms can label a product as 100% juice if the product contains other ingredients, such as sweeteners or preservatives if the statement is accurate, as summarized below, and meets FDA’s other requirements.

FDA requires the percent juice declaration for foods purporting to be beverages that contain any fruit or vegetable juice (21 CFR 101.30). If added ingredients do not reduce the juice’s soluble solids content, the percent juice calculation would not be affected under 21 CFR 101.30(b)(3). Regardless of whether other ingredients are added, the juice content calculations must be accurate.

FDA also requires that the label clearly indicate whether other ingredients are added to the product. Any added ingredients must be listed in the ingredient statement (21 CFR 101.4). In addition, if the percent juice statement is not on the label panel that contains the ingredient statement, firms must declare the non-juice ingredients by specifying added ingredients as part of the percent juice statement or by declaring the non-juice ingredients as part of the product name (21 CFR 101.30(b)(3)). For example, if a sweetener were added to a 100% juice product, then the statement “100% juice with added sweetener” would be appropriate.

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To bear the “No Added Sugar” nutrient content claim, a food must meet five conditions, which are specified in detail in 21 CFR 101.60(c)(2). In your letter, you pointed to one of these conditions — that the term may be used only if “the food that it resembles and for which it substitutes normally contains added sugars” (21 CFR 101.60(c)(2)(iv)). We note that this condition does not limit the “No Added Sugar” claim to only very similar foods bearing the same name or the same juice content. For example, juices with no added sugar could substitute for juice with added sugar, fruit-flavored soft drinks sweetened with sugar, or other sugar-sweetened beverages.

The permissibility of the “No Added Sugar” claim on juices (single strength or 100% juice with or without added ingredients) is consistent with FDA’s new definition for added sugars in 21 CFR 101.9(c)(6)(ii). Fruit juices (and vegetable juices) reconstituted to single strength (100% juices) are not included in the added sugars definition. As stated in the May 27, 2016, final rule on nutrition labeling, there is no conflict between the definition of added sugars and the requirement for use of the “No Added Sugar” nutrient content claims (81 FR 33742 at 33837). Additionally, single strength or 100% juices have never been considered to be added sugars in the Dietary Guidelines for Americans.

Finally, we share your concern about consumer understanding of these products. We believe that by considering the labeling in its entirety, consumers will be able to compare products bearing the 100% juice declaration and the “No Added Sugar” claim with other similar products. The product name, the juice content declaration, any nutrient content claims, the ingredient statement, and the Nutrition Facts label that now includes an “Added Sugars” declaration will help consumers make informed decisions.

Thank you, again, for contacting us concerning this matter. If you have further questions, please let us know.

Sincerely yours,

Douglas A. Balentine, Ph.D.  
Director  
Office of Nutrition  
and Food Labeling  
Center for Food Safety  
and Applied Nutrition